

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

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DEPARTMENT OF LAW

January 2, 2013

Hon. William D. Wall, U.S.M.J.
Long Island Federal Courthouse
100 Federal Plaza
P.O. Box 9014
Central Islip, NY 11722-9014

Re: *Datz, Phillip v Milton, Michael and County of Suffolk*
Docket No.: 12-cv-1770 (LDW)(WDW)

Hon. Magistrate Wall:

The County submits this letter in response to the plaintiff's motion of December 27, 2012. The plaintiff's letter seeks sanctions against the County for the County's failure to provide responses to some of plaintiff's discovery demands and interrogatory demands.

Plaintiff is correct that Sgt. Milton's personnel file has not yet been provided. The County will provide the file within the time set by the court. (There are certain redactions, such as social security numbers and dates of birth that need to be completed to the file.)

Plaintiff alleges that the records regarding plaintiff's arrest and detention (Requests 2 & 3) have not been provided. However, those records are attached to the Internal Affairs File as attachments #5 (arrest report) and #6 (prisoner activity log). Plaintiff was only in custody for a few hours. The County is in the process of obtaining the taped interviews referred to in the IA report and will provide those tapes to plaintiff's counsel. In addition, we will provide the plaintiff with the documents and/or information he has requested regarding the disciplinary charges against Sgt. Milton, as well as providing a working tape of the police radio communications.

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As to Requests 15-17, the plaintiff has been provided with the information regarding these complaints. No formal complaints were filed and, as such, they were handled informally and no IAB investigations were instituted. In plaintiff's letter to the County dated November 27, 2012 (exhibit F to the within motion), plaintiff refers to other complaints from media persons allegedly made regarding the behavior of the Suffolk County Police Department. We will make another inquiry to confirm that there are no further records that need to be provided regarding these requests.

The County has inquired into any further training material regarding police interaction with the media (Requests 23-24). Other than the documents previously provided to the plaintiff, this office has been provided with a few other Rules and Procedures which will be provided to the plaintiff. No further training materials exist.

To the extent that the officers involved in the thirteen incidents set forth in plaintiff's complaint can be identified, the County will provide their personnel files. However, as plaintiff has been advised, other than incident involving Sgt. Milton, there have not been any IA investigations regarding police denial of media access. (County's Response to Interrogatory #10.)

Regarding the County's response to plaintiff's interrogatory demands, specifically Interrogatories 1, 5, 6 and 8) it is respectfully submitted that the County has responded as well as possible. The responses indicate that Sgt. Milton was of the opinion that his arrest of the plaintiff was proper; however, the responses also indicate that the County will rely on the findings of the IA report, wherein Internal Affairs found that there was no probable cause for the arrest.

The names of the officers involved in plaintiff's arrest and the names of the officers involved in the arrest that plaintiff was attempting to film are provided in the Internal Affairs report.

Regarding plaintiff's request for attorney's fees, the County would submit that the County has, in fact, provided a substantial amount of discovery and that the County is taking all steps to rectify any insufficiencies in its responses.

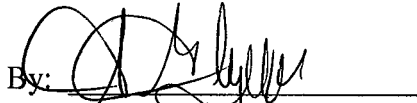
Thank you.

Very truly yours,

Paul J. Margiotta
Acting Suffolk County Attorney

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By: 

Susan A. Flynn
Bureau Chief, State & Federal Torts

cc: Davis Wright Tremaine LLP (via ecf)